

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

U.S. COMMODITY FUTURES TRADING) COMMISSION et al.,)) Plaintiffs,)) vs.)) NATIONAL INVESTMENT) CONSULTANTS, INC., et al.,) Defendants,)) and)) THERESA C. WONG, an individual,) Relief Defendant.))) _____)	Case No.: 05-cv-02641-JSW Judge: The Hon. Jeffrey S. White Next Hearing: September 1, 2006 JOINT STATUS REPORT
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Plaintiffs, U.S. Commodity Futures Trading Commission (the “Commission”) and the Commissioner of Corporations of the State of California (“California”) (collectively “Plaintiffs”) and Defendants National Investment Consultants, Inc. (“NICI”), Raymond Tse, Flora Zhou, Yi Kerry Xu, and relief Defendant Theresa C. Wong by the undersigned counsel hereby submit this Joint Report pursuant to this Court’s Minute Order filed July 20, 2006.

1. Settlement

On May 25, 2006, the parties attended a continued settlement conference held by United States Magistrate Judge Edward M. Chen. The parties reached a settlement in principle and Magistrate Judge Chen provided the parties with dates to exchange drafts and obtain the requisite signatures. Counsel for both Plaintiffs and Defendants worked diligently to resolve issues with the language in the settlement documents and after several weeks of negotiations, the parties have a final agreed upon a Proposed Consent Order of Permanent Injunction and an

1 accompanying Proposed Stipulated Judgment (the “Proposed Consent Order and Injunction”).

2 The Commission requires signed copies of all proposed consent orders before
3 considering an offer of settlement. The settlement documentation was duly forwarded to the
4 defendants for signature with time to review and consider the settlement documentation. The
5 Commission received the last set of required signatures on June 30, 2006. Kevin K. Batteh,
6 counsel for Plaintiff Commission was out of the office for his wedding and honeymoon from the
7 end of July until mid August. Counsel fully expected review of the matter to be completed prior
8 to his return. The review process is not complete, however; the matter has now been reviewed
9 by each Division within the Commodity Futures Trading Commission and has been transmitted
10 for final signature by the various Commissioners of the Commodity Futures Trading
11 Commission.
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14 Counsel is reasonably certain that final sign off will occur prior to the September 1, 2006
15 Case Management Conference. Entry of the Proposed Consent Order and Injunction would fully
16 resolve this matter and obviate the need for this Court to conduct a further Case Management
17 Conference or Hearing on Defendants pending Motion.
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19 **2. Thelen Reid & Priest’s Motion to Withdraw**

20 Thelen Reid & Priest LLP and the individual attorneys of that firm who are counsel of
21 record for various defendants (“Thelen Reid”) filed a motion to withdraw as to Defendants NICI
22 and Raymond Tse and Relief Defendant Theresa Wong. A hearing on that motion is currently
23 scheduled for September 1, 2006.

24 Counsel for the parties anticipate that the Commission will approve the current settlement
25 documentation before September 1, 2006 and that the Proposed Consent Order and Injunction
26 will be presented to this Honorable Court for signature and entry before that date, thereby
27 concluding this litigation and causing the pending motion to withdraw to become moot.
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1 In an abundance of caution, the undersigned parties request an extension of the Case
2 Management Conference and the Hearing on Defendants Motion to Withdraw as Counsel of
3 Record for two weeks to give the parties sufficient time to obtain the requisite Commission
4 settlement authority and enter the Proposed Consent Order and Injunction for this Court's
5 review.
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7 Dated: August 24, 2006
8

9 

10 By _____
11 KEVIN K. BATTEH
12 JAMES H. HOLL, III
13 Attorneys for Plaintiff
14 U.S. COMMODITY FUTURES TRADING
15 COMMISSION

16 By _____/s/_____
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INC.; WEI M. TSE a.k.a. RAYMOND TSE, and
for Relief Defendant THERESA C. WONG

I, Kevin K. Batteh, hereby attest, pursuant to N.D. Cal. General Order 45, that the concurrence to the filing of this document has been obtained from each signatory hereto.

Kevin Batteh



The hearing on the Motion to Withdraw as Counsel of Records and the further Case Management Conference are HEREBY CONTINUED to September 15, 2006 at 9:00 a.m.

Dated: August 28, 2006